

## Dickerson Man May Face \$83,000 Tree-Cutting Fine

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Anthony Mercoo sees the case against him as nothing more than pulp fiction. Literally.

The tale began more than a year ago in rural Dickerson in northwestern Montgomery County. Mercoo bought two acres for \$65,000, hoping to build a house.

Today, he could be fined \$83,000 by the Montgomery County Planning Board, which, if approved, would be the largest in recent memory. Mercoo, a grocery store clerk, stands accused by his neighbors and the county of illegally cutting down trees, and federal investigators, who also have cited him, said they have found signs of illegal dumping in a nearby creek.

Mercoo denies cutting down or dumping the trees. He said he is being made a scapegoat by county officials eager to deflect criticism that they have failed to adequately enforce development laws. "I always thought the county was supposed to help with the development process, especially single property owners," Mercoo said yesterday. "They let

builders off the hook, like Clarksburg. They write a check, and it's over. I am sure they are going to give it to me with fines."

Mercoo was referring to last year's controversy over building irregularities at Clarksburg Town Center, where hundreds of houses were built too tall and too close to the road. The developer and builders eventually agreed to pay about \$14 million in a mediated agreement to finance new amenities in the development.

Mercoo's case represents a smaller-scale controversy, but officials view illegal tree cutting as a serious offense. State and local laws restrict cutting down trees, even on private land, to ensure that a sufficient tree canopy is maintained to help prevent erosion, improve air quality and provide shade. Plans to cut down trees on private property of 40,000 square feet or more require pre-approval by county officials, and doing so on smaller properties also may be subject to pre-approval. Additionally, federal laws protect wetlands from building, clearing and dumping.

The planning agency, which is recommending Mercoo's fine, said that witnesses saw Mercoo cutting down the trees and that

he should have known his legal responsibilities. Agency staffers also said Mercoo tangled with the agency a few years ago over illegally cutting down trees in Baronsville. Mercoo blamed someone else but agreed to plant new trees.

Mercoo also was fined \$107.50 recently by a county judge for failing to get a sediment control permit for his Dickerson property. When he failed to pay, the county issued a warrant for him, and he paid the fine.

As planning agency staffers probed his current case, they tracked down a company that rented saws and skids to Mercoo about the time that neighbors say they witnessed the tree removal. Staffers also pored over aerial photographs to figure out when the tree cutting occurred.

According to a Montgomery park and planning report, Mercoo told at least one neighbor that he was going to try to figure out "who turned him in." He also has offered to donate his property to the county in exchange for it dropping the fines, but the planning agency staff has opposed the donation.

Redskin owner Daniel M. Snyder paid \$37,000 last year into a county conservation

fund to compensate for clearing 55,000 square feet of land to improve his view of the C&O Canal. That was about 80 cents per square foot, officials said. The recommended fine against Mercoo is \$1 per square foot for a larger area, officials said.

Mercoo said yesterday that the proposed fine, which the board is scheduled to consider today, would bankrupt him.

The case against Mercoo comes at a pivotal moment for Montgomery's park and planning agency, as the board's new chairman, Royce Hanson, is eager to change a culture that critics have said encouraged lax enforcement on development.

Despite the size of the proposed fine against Mercoo, civic activists in Montgomery say they are worried that the planning agency is not sufficiently protecting trees. The Montgomery County Civic Federation wrote to the agency yesterday asking it to suspend work on tree protection until it could set up a more stringent program.

Planning agency staffers, who have been meeting for several weeks as part of an agency task force to examine the enforcement of tree laws, have complained during meetings

that the tree protection program has long been understaffed.

Officials said they are unable to provide a complete history of fines for those who have violated the tree protection program, but they believe the proposed fine for Mercoo to be one of the largest.

Peter Gajary, a leading government expert on imagery analysis who examined aerial photos of an Ashton property in a case of alleged illegal tree cutting, said the agency uses antiquated methods and equipment. "I faced an arrogance and dismissiveness I have rarely encountered anywhere... They used technology that we haven't used since the late 1970s," Gajary said.

This week, the County Council began examining a proposed law introduced by Howard A. DeMa (R-Bethesda/Potomac) and Marilyn Prater (D-Eastern County) to clarify the agency's responsibility in protecting so-called champion trees. Planning agency lawyers say the law is murky, and civic activists say the agency's responsibilities are clear already.

Last month, a task force set up by Rep. Chris Van Hollen (D-Md.) urged the county to do more to protect trees to counter the effects of encroaching development. The group was set up after Snyder was cited.

Staff researchers Karl Branz and Meg Smith contributed to this report.

# Neighbors Try to Protect Tree

law, but my bill is to remove that ambiguity." County Council member Marilyn Praisner (D-Eastern County) co-sponsored the bill.

Either way, neighbors worried that a demolition might occur. Eight of them, along with the civic group Montgomery Preservation Inc., took the issue to court. Friday afternoon, a circuit court judge granted a temporary restraining order barring demolition of the tree. A hearing was set for yesterday to revisit the issue.

A public hearing on Denis's legislation is scheduled for 1:30 p.m. Tuesday and a vote is expected on Oct. 17.

This isn't the first time neighbors have tried to protect green space. Petrides and Greenberg were among several activists who battled in court to protect a small Bethesda park.

Last Saturday, more than 20 neighbors held hands around the cherry tree to show support for its preservation.

"We live in an area of Bethesda that's being redeveloped very rapidly," Petrides said. "It's the area that's heavily treed. Almost every developer clear-cuts almost every lot that's being built on."

Greenberg criticized the county's Department of Permitting Services for issuing a demolition permit without notifying all the property's immediate neighbors.

By law, the county must inform all adjacent and confronting neighbors about planned demolitions. Case workers typically get a list of those neighbors from the permit applicant. For the Marbury Road property, however, the owner and applicant, Franklin Pimenta, omitted at least one neighbor from the

list, officials said. Once it was discovered that the application was incomplete, a temporary stop was placed on the demolition. Neighbors also said the phone number on the application was disconnected. Pimenta could not be reached for comment.

"We didn't check this one," said Reginald Jetter, division chief for case work management at the Permitting Services Department, who said the staff will make sure all neighbors' addresses are correct in the future.

Jetter also said that Pimenta expressed to his staff that he had no intention of tearing down the tree.

Greenberg contends that unless there is a stated intention to protect the tree, it is vulnerable.

Denis's legislation would help protect champion trees, but planning officials said the public should not have false expectations.

"The forest conservation law emphasizes conservation, not preservation," Wright said. "This means . . . the county may grant approval of removing forest as long as the removal is mitigated in some way."

Activists say that the laws are unclear.

"There's a disparity between how the regulations are interpreted by Park and Planning and [the Department of Permitting Services] and how the public interprets them," said Steve Kanstoroom, an activist in Ashton who helped draft the proposed legislation.

In the meantime, the weeping cherry has galvanized the Bethesda neighborhood. A raffle — \$50 per ticket — is planned to raise funds to help protect the tree. The winner will receive a local artist's painting of it.